

In The United States Court of Federal Claims

No. 09-460L

(Filed: May 9, 2013)

DOUGLAS R. BIGELOW TRUST,
JAMIE MORTENSON, *et al.*,
On behalf of themselves and all other
similarly situated persons,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ORDER

On November 19, 2012, this court issued an opinion denying plaintiffs' motion for partial summary judgment and granting defendant's cross-motion for partial summary judgment. In that opinion, the court held that there was no takings of one of the parcels at issue, that owned by Mary Lou Brady. On January 9, 2013, plaintiffs filed a motion to sever Ms. Brady's claim under RCFC 21. On January 28, 2013, defendant filed its response to plaintiffs' motion, suggesting that a better route would be to enter judgment on Ms. Brady's claim under RCFC 54(b). On March 8, 2013, the court denied plaintiff's motion to sever. On May 2, 2013, the court held a status conference regarding settlement negotiations in this case.

The court believes that defendant is correct that the proper rule at issue here is RCFC 54(b). In granting final judgment under that rule, the court must exercise its discretion "in the interest of sound judicial administration," taking into account "judicial administrative interests as well as the equities involved." *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980); *see also Intergraph Corp. v. Intel Corp.*, 253 F.3d 695, 699 (Fed. Cir. 2001). These same principles apply in class actions. *See Adams v. United States*, 51 Fed. Cl. 57 (2001).

Based on discussions at the May 2, 2013, status conference, the court concludes that the sound administration of this case would now be promoted by issuing a separate judgment under RCFC 54(b). Finding no just reason for delay, and in order to encourage settlement of all claims

in this case, the court hereby **ORDERS** the Clerk to enter partial final judgment in favor of defendant dismissing the claim of Mary Lou Brady.

IT IS SO ORDERED.

s/ Francis M. Allegra
Francis M. Allegra
Judge